

AMENDED IN ASSEMBLY JULY 3, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 556

Introduced by Senator Sher
(Principal coauthor: ~~Assembly Member Daucher~~)
(~~Coauthors: Senators Alpert and Scott~~)
(*Coauthor: Senator Alpert*)

February 20, 2003

~~An act to amend Sections 52122, 52123, 52124, and 52126 of the Education Code, relating to class size, and declaring the~~ *An act to amend, add, and repeal Section 52124 of the Education Code, relating to class size, and declaring the* urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 556, as amended, Sher. Class size.

Existing law establishes the Class Size Reduction Program, in which participating school districts are provided funding for each class in which the class size is reduced to a ratio of 20 pupils to 1 teacher in kindergarten and any of grades 1 to 3, inclusive. ~~Existing law allows certain small school districts to determine the average class size on a schoolsite basis rather than on an individual class basis if the ratio of pupils to teacher in any class included in the average does not exceed the 20 to 1 ratio by more than 2 pupils provided that the school certifies that such a class is taught by a certificated teacher.~~

~~This bill would, for the 2003-04, 2004-05, and 2005-06 school years, authorize all school districts to determine average class size on a schoolsite basis in the same manner as certain small school districts~~

~~provided that any class operating under this flexibility alternative maintains an annual average class size of 22 pupils or less, provided that the schoolsite annual average ratio does not exceed 20 pupils to 1 teacher, and certifies that the class is taught by a teacher who holds either a preliminary or clear teaching credential.~~

Existing law requires the Class Size Reduction Program to be implemented in accordance with a prescribed order of priority regarding grade level and requires the Controller to deduct a specified amount from the district's next principal apportionment for each class that the district failed to reduce to a class size of 20 or less pupils.

~~This bill would authorize, through the 2005–06 school year, require any school district establishing a class size reduction program to implement the program in accordance with these existing priorities, or, for the 2003–04, 2004–05, and 2005–06 school years, to select the grade level or levels at a schoolsite to be reduced and to give priority to reducing class size in the selected grade level or levels before reducing class size in other grade levels at the schoolsite. This bill would prohibit the Superintendent of Public Instruction from apportioning funds to individual classes operating under the flexibility alternative that exceed a ratio of 20 pupils to 1 teacher if the schoolsite average class size ratio exceeds a ratio of 20 pupils to 1 teacher require the Controller to deduct from the district's next principal apportionment a specified amount based on the annual pupil enrollment of a class above a prescribed number.~~

Existing law authorizes a school district to establish a district deferred maintenance account to fund the major repair or replacement of school facilities systems. Existing law requires the State Allocation Board to allocate to a school district, within prescribed limits, state funding from the State School Deferred Maintenance Fund in an amount that equals the amount of local funds deposited in the district account by the school district for this purpose.

This bill would authorize the governing board of a school district to use moneys that it deposited in the district deferred maintenance account in the 2003–04, 2004–05, or 2005–06 fiscal years to supplement, as necessary, state funds allocated to support class size reduction programs.

This bill would make other technical and conforming changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—It is the intent of the Legislature in enacting this~~
2 ~~act to encourage continued participation in the Class Size~~
3 ~~Reduction Program by providing school districts the opportunity~~
4 ~~to make implementation decisions at the local level.~~

5 ~~SEC. 2.—Section 52122 of the Education Code is amended to~~
6 ~~read:~~

7 ~~52122.—(a) Except as otherwise provided by Section 52123,~~
8 ~~a school district that maintains any kindergarten or any of grades~~
9 ~~1 to 3, inclusive, may apply to the Superintendent of Public~~
10 ~~Instruction for an apportionment to implement a class size~~
11 ~~reduction program in that school district in kindergarten and any~~
12 ~~of grades 1 to 3, inclusive.~~

13 ~~(b) An application submitted pursuant to this chapter shall~~
14 ~~identify both of the following:~~

15 ~~(1) Each class that will participate in the Class Size Reduction~~
16 ~~Program.~~

17 ~~(2) For each class that will participate in the Class Size~~
18 ~~Reduction Program, whether that class will operate under Option~~
19 ~~One or Option Two:~~

20 ~~(A) (i) Option One: A school district shall provide a reduced~~
21 ~~class size for all pupils in each classroom for the full regular~~
22 ~~school day in each grade level for which funding is claimed. For the~~
23 ~~purposes of this chapter, “full regular school day” means a~~
24 ~~substantial majority of the instructional minutes per day, but shall~~
25 ~~permit limited periods of time during which pupils are brought~~
26 ~~together for a particular phase of education in groups that are larger~~
27 ~~than 20 pupils per certificated teacher. It is the intent of the~~
28 ~~Legislature that those limited periods of time be kept to a minimum~~
29 ~~and that instruction in reading and mathematics not be delivered~~
30 ~~during those limited periods of time. For the purposes of this~~
31 ~~subparagraph, “class” is defined in the same manner as provided~~
32 ~~in the regulations adopted by the Superintendent of Public~~
33 ~~Instruction prior to July 1, 1996, pursuant to Sections 41376 and~~
34 ~~41378 (subdivision (a) of Section 15103 of Title 5 of the California~~
35 ~~Code of Regulations).~~

~~(ii) The purpose of the Class Size Reduction Program is to ensure that children in public school in kindergarten and grades 1 to 3, inclusive, receive instruction in classrooms in which there are not more than 20 pupils. Except as provided in subdivisions (e) or (f), in order to qualify for funding pursuant to this chapter, each class in the Class Size Reduction Program shall be maintained with an annual average class size of not more than 20 pupils for the instructional time that qualifies the class for funding pursuant to this chapter. This chapter does not prohibit the class size from exceeding 20 pupils on any particular day, provided that the average class size for the school year does not exceed 20.~~

~~(B) (i) Option Two: A school district shall provide a reduced class size for all pupils in each classroom for at least one-half of the instructional minutes offered per day in each grade level for which funding is claimed. A school district selecting this option shall primarily devote those instructional minutes to the subject areas of reading and mathematics. For the purposes of this subparagraph, "class" is defined in the same manner as provided in the regulations adopted by the Superintendent of Public Instruction prior to July 1, 1996, pursuant to Sections 41376 and 41378 (subdivision (a) of Section 15103 of Title 5 of the California Code of Regulations).~~

~~(ii) The purpose of the Class Size Reduction Program is to ensure that children in public school in kindergarten and grades 1 to 3, inclusive, receive instruction in classrooms where there are not more than 20 pupils. Except as provided in subdivisions (e) or (f), in order to qualify for funding pursuant to this chapter, each class in the Class Size Reduction Program shall be maintained with an annual average class size of not more than 20 pupils for the instructional time that qualifies the class for funding pursuant to this chapter. This chapter does not prohibit the class size from exceeding 20 pupils on any particular day, provided that the average class size for the school year does not exceed 20.~~

~~(c) A school district that intends to implement or continue to implement a class size reduction program shall submit an application for funding pursuant to this chapter to the Superintendent of Public Instruction not later than 90 days after the annual Budget Act is chaptered, unless otherwise specified in regulations adopted by the State Board of Education.~~

~~(d) Any school district that reduces class size through the use of an early-late instructional program is ineligible to use Section 46205, relating to the computation of instructional time for purposes of the Incentive for Longer Instructional Day and Year, in any grade level for which class size reduction funding is received pursuant to this chapter. Any school district that operated under Section 46205 prior to July 1, 1996, may receive class size reduction funding pursuant to Option One in any grade level for which class size reduction funding would otherwise be received pursuant to Option One.~~

~~(e) (1) Notwithstanding any other provision of law, a school district that maintains only one school serving pupils in kindergarten and grades 1 to 3, inclusive, is eligible to receive funding under this section on behalf of the school if there are no more than two classes per participating grade level and the average class size is no more than 20 pupils in each of the classes participating in class size reduction at that schoolsite. For purposes of this subdivision, average class size may be determined by calculating the total number of pupils enrolled in all classes at all grade levels in a school that will participate in the Class Size Reduction Program divided by the total number of classes in the school. The ratio of pupils to teacher in any class included in the average shall not exceed the 20 to 1 standard by more than two pupils.~~

~~(2) As a condition of applying for funding under this subdivision, a governing board shall make a public declaration, either by adopting a resolution or by issuing a statement in a publicly noticed open meeting, that it has exhausted all possible alternatives to averaging and is unable to achieve the 20 to 1 pupil-teacher ratio in a way that is educationally acceptable.~~

~~(f) (1) Notwithstanding any other provision of law, for the 2003-04, 2004-05, and 2005-06 school years, a school district is eligible to receive funding under this section if each class in the Class Size Reduction Program is maintained with an annual schoolsite average class size of not more than 20 pupils for the instructional time that qualifies the class for funding pursuant to this chapter. For purposes of this chapter, schoolsite average class size is determined by calculating the total number of pupils at a schoolsite who are enrolled in classes at all grade levels that participate in the Class Size Reduction Program divided by the~~

~~total number of classes at the schoolsite at all grade levels that participate in the Class Size Reduction Program. The ratio of pupils to teacher in any class included in the average may not exceed the 20 to 1 standard ratio by more than two pupils.~~

~~(2) Any class included in the average that exceeds the 20 to 1 standard by up to two pupils shall be instructed by a teacher who holds either a preliminary or clear teaching credential.~~

~~SEC. 3. Section 52123 of the Education Code is amended to read:~~

~~52123. The application of a school district for funding to implement a program pursuant to this chapter shall include certification of each of the following items as a condition to receiving an apportionment under Section 52126:~~

~~(a) Certification of the number of classes in each eligible grade level selected for a class size reduction apportionment pursuant to this chapter.~~

~~(b) Certification of pupil enrollment, as of October of the previous calendar year, in each class selected for class size reduction pursuant to subdivision (a). Classes comprised of special education pupils enrolled in special day classes on a full-time basis may not be included in this program. A school district may not claim funding pursuant to this chapter for any pupil who is enrolled in independent study pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 for the full regular schoolday nor may a school district claim funding pursuant to this chapter for a pupil for any portion of the full regular day that the pupil is enrolled in independent study pursuant to that article. A charter school may not claim funding pursuant to this chapter for any pupil who is enrolled in a program of home study for the full regular schoolday nor may a charter school claim funding for any pupil for a portion of the full regular schoolday that the pupil is enrolled in a program of home study.~~

~~(c) (1) Certification that a certificated teacher has been hired by the school district and is providing direct instructional services to each class selected for class size reduction pursuant to this chapter and that there are not more than 20 pupils per class.~~

~~(2) In a school district that applies for funding pursuant to subdivision (c) of Section 52122, certification of all of the following:~~

1 ~~(A) A certificated teacher has been hired by the school district~~
2 ~~and is providing direct instructional services to each class selected~~
3 ~~for class size reduction pursuant to this chapter.~~

4 ~~(B) The ratio of pupils to teacher does not exceed the 20 to 1~~
5 ~~standard ratio by more than two pupils.~~

6 ~~(3) In a school district that applies for funding pursuant to~~
7 ~~subdivision (f) of Section 52122, certification of all of the~~
8 ~~following:~~

9 ~~(A) A teacher who holds either a preliminary or clear teaching~~
10 ~~credential has been hired by the school district and is providing~~
11 ~~direct instructional services to each class selected for class size~~
12 ~~reduction pursuant to this chapter.~~

13 ~~(B) The ratio of pupils to teacher does not exceed the 20 to 1~~
14 ~~standard ratio by more than two pupils.~~

15 ~~(4) For the purposes of this subdivision, "class" is defined in~~
16 ~~the same manner as provided in the regulations adopted by the~~
17 ~~Superintendent of Public Instruction prior to July 1, 1996,~~
18 ~~pursuant to Sections 41376 and 41378 (subdivision (a) of Section~~
19 ~~15103 of Title 5 of the California Code of Regulations).~~

20 ~~(d) Certification that the school district has a staff development~~
21 ~~program pursuant to Section 52127 and that the program has been~~
22 ~~approved by the governing board of the school district.~~

23 ~~(e) Certification that the school district will collect and~~
24 ~~maintain any data required by the Superintendent of Public~~
25 ~~Instruction that will aid in the evaluation of the Class Size~~
26 ~~Reduction Program. The data shall include, but not be limited to,~~
27 ~~individual test scores or other records of pupil achievement. Data~~
28 ~~collected shall be protected in a manner that will not permit the~~
29 ~~personal identification of any pupil or parent.~~

30 ~~(f) Certification that each class reduced pursuant to this chapter~~
31 ~~is housed in either a separate, self-contained classroom or that the~~
32 ~~space of each class for each grade level at that schoolsite provides~~
33 ~~a square footage per pupil enrolled in each class that is not less than~~
34 ~~the average square footage per pupil enrolled in those grade levels~~
35 ~~at that schoolsite in the 1995-96 school year.~~

36 ~~SEC. 4.—~~

37 ~~SECTION 1. Section 52124 of the Education Code is~~
38 ~~amended to read:~~

52124. (a) A school district that implements a class size reduction program pursuant to this chapter is subject to this section.

(b) A school district may establish a program to reduce class size in kindergarten and grades 1 to 3, inclusive, and that program shall be implemented at each schoolsite according to the following priorities:

(1) ~~If only one grade level is reduced at a schoolsite, the grade level shall be grade 1.~~

(2) ~~If only two grade levels are reduced at a schoolsite, the grade levels shall be grades 1 and 2.~~

(3) ~~If three grade levels are reduced at a schoolsite, then those grade levels shall be kindergarten and grades 1 and 2 or grades 1 to 3, inclusive. Priority shall be given to the reduction of class sizes in grades 1 and 2 before the class sizes of kindergarten or grade 3 are reduced.~~

(4) ~~If four grade levels are reduced at a schoolsite, then those grade levels shall be kindergarten and grades 1 to 3, inclusive. First priority shall be given to the reduction of class sizes in grades 1 and 2, second priority shall be given to the reduction of class size in kindergarten and grade 3. This paragraph shall be operative only in those fiscal years for which funds are appropriated expressly for the purposes of this paragraph. In order to best meet the needs of its pupils, the governing board of a school district shall do both of the following:~~

(1) Select the grade level or levels to be reduced at each schoolsite.

(2) Give priority to reducing class size in the selected grade level or levels at the schoolsite before reducing class size in other grade levels at that schoolsite.

(c) It is the intent of the Legislature to continue to permit the use of combination classes of more than one grade level to the extent that school districts are otherwise permitted to use that instructional strategy. However, any school district that uses a combination class in any class for which funding is received pursuant to this chapter may not claim funding pursuant to this chapter if the total number of pupils in the combination class, regardless of grade level, exceeds 20 pupils per certificated teacher assigned to provide direct instructional services.

(d) The governing board of a school district shall certify to the Superintendent of Public Instruction that it has met the requirements of this section in implementing its class size reduction program. If a school district receives funding pursuant to this chapter but has not implemented its class size reduction program for all grades and classes for which it received funding pursuant to this chapter, the Superintendent of Public Instruction shall notify the Controller and the school district in writing and the Controller shall deduct an amount equal to the amount received by the school district under this chapter for each class that the school district failed to reduce to a class size of 20 or less pupils from the school district's next principal apportionment or apportionments of state funds to the district, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution.

~~(e) Notwithstanding any other provision of law, for the 2003-04, 2004-05, and the 2005-06 school years, in order to best meet the needs of its pupils, as an alternative to subdivision (b) the governing board of a school district shall do both of the following:~~

~~(1) Select the grade level or levels to be reduced at each schoolsite.~~

~~(2) Give priority to reducing class size in the selected grade level or levels at a schoolsite before reducing class size in other grade levels at that schoolsite.~~

~~(e) This section shall become operative on and after January 1, 2007.~~

SEC. 2. Section 52124 is added to the Education Code, to read:

52124. A school district that implements a class size reduction program pursuant to this chapter is subject to this section.

(b) A school district may establish a program to reduce class size in kindergarten and grades 1 to 3. In order to best meet the needs of its pupils, the governing board of a school district shall do both of the following:

(1) Select the grade level or levels to be reduced at each schoolsite.

(2) Give priority to reducing class size in the selected grade level or levels at a schoolsite before reducing class size in other grade levels at that schoolsite.

(c) It is the intent of the Legislature to continue to permit the use of combination classes of more than one grade level to the extent

1 that school districts are otherwise permitted to use that
2 instructional strategy. However, any school district that uses a
3 combination class in any class for which funding is received
4 pursuant to this chapter may not claim funding pursuant to this
5 chapter if the total number of pupils in the combination class,
6 regardless of grade level, exceeds 20 pupils per certificated
7 teacher assigned to provide direct instructional services.

8 (d) The governing board of a school district shall certify to the
9 Superintendent of Public Instruction that it has met the
10 requirements of this section in implementing its class size
11 reduction program. If a school district receives funding pursuant
12 to this chapter but has not implemented its class size reduction
13 program for all grades and classes for which it received funding
14 pursuant to this chapter, the Superintendent of Public Instruction
15 shall notify the Controller and the school district in writing and the
16 Controller shall deduct an amount equal to the amount determined
17 pursuant to paragraphs (1) to (4), inclusive, of subdivision (e), as
18 appropriate, for each class that the school district failed to reduce
19 to a class size of 20 or less pupils from the school district's next
20 principal apportionment or apportionments of state funds to the
21 district, other than basic aid apportionments required by Section
22 6 of Article IX of the California Constitution.

23 (e) Except for school districts participating pursuant to
24 subdivision (h) of Section 52122, the amount deducted pursuant to
25 subdivision (d) shall be adjusted as follows:

26 (1) Fifteen percent of the amount to which the district would
27 otherwise be eligible for each class for which the annual
28 enrollment determined pursuant to Section 52124.5 is greater than
29 or equal to 20.5 but less than 21.00.

30 (2) Thirty percent of the amount to which the district would
31 otherwise be eligible for each class for which the annual average
32 enrollment determined pursuant to Section 52124.5 is greater than
33 or equal to 21.00 but less than 21.5.

34 (3) Forty-five percent of the amount to which the district would
35 otherwise be eligible for each class for which the annual average
36 enrollment determined pursuant to Section 52124.5 is greater than
37 or equal to 21.5 but not greater than 22.00.

38 (4) The amount deducted pursuant to subdivision (d) for each
39 class for which the annual average enrollment determined
40 pursuant to 52141.5 is greater than or equal to 22.1 shall be the

amount to which the district would otherwise be eligible for that class for which it received funding pursuant to this chapter.

(f) Notwithstanding any other provision of law, with respect to the funds that would otherwise have been deposited in a school district's deferred maintenance fund as a local contribution pursuant to Section 17584 for the 2003–04, 2004–05, or 2005–06 fiscal years, the governing board of a school district may use those funds to supplement, as necessary, state funding for the Class Size Reduction Program established pursuant to this chapter, to avoid the reduction or elimination of that program.

(g) This section shall be operative through the 2005–06 school year, and as of January 1, 2007 is repealed, unless a later enacted statute deletes or extends that date.

~~SEC. 5. Section 52126 of the Education Code is amended to read:~~

~~52126. The amount of funding that each school district implementing a class size reduction program pursuant to this chapter is eligible to receive shall be computed as follows:~~

~~(a) If a school district applies to participate in Option One, pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to eight hundred dollars (\$800) for each pupil actually enrolled in the classes in which the school district implements the program, except that the maximum number of pupils for which a school district may claim funding for any class may not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program.~~

~~(b) If a school district applies to participate in Option Two, pursuant to subparagraph (B) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to four hundred dollars (\$400) per pupil actually enrolled in the classes in which the school district implements the program, except that the number of pupils in any class for which a school district may claim funding for the instructional minutes offered may not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program.~~

~~(c) The per pupil amount set forth in subdivisions (a) and (b) shall be increased annually for inflation by the percentage change determined pursuant to subdivision (b) of Section 42238.1.~~

~~(d) Except for the advance apportionment, the Superintendent of Public Instruction shall apportion funds to a school district only after certification that its class size reduction program has been implemented for that fiscal year.~~

~~(e) The Superintendent of Public Instruction shall apportion funds for this program in the following manner:~~

~~(1) An advance apportionment shall be made following passage of the annual Budget Act. This apportionment shall be provided to all school districts that participated in the program in the prior fiscal year, and shall be limited to 25 percent of the amount computed by multiplying the appropriate per pupil stipends times the actual enrollment in each participating class in the prior fiscal year, as reported by the district pursuant to subdivision (d) of Section 52124.~~

~~(2) Each year an apportionment to all applicants shall be made following receipt of applications submitted pursuant to Section 52123, adjusted as necessary by the amount received pursuant to paragraph (1). If a school district that participated in this program in the prior fiscal year fails to submit an application, all funds apportioned to that school district pursuant to paragraph (1) shall be deducted from the district's next monthly principal apportionment payment.~~

~~(3) A final adjustment to the amounts paid pursuant to paragraph (2) shall be made following receipt of the actual enrollment in each participating class, to be reported by each school district pursuant to subdivision (d) of Section 52124.~~

~~(f) Irrespective of the amount that a school district receives pursuant to subdivision (a) on the basis of the application it makes under Section 52123, that district shall not retain any funds it receives for any class that does not actually meet all of the requirements of the Class Size Reduction Program.~~

~~(g) It is the intent of the Legislature that the total statewide amount computed for the purposes of this chapter pursuant to this section be appropriated to the Superintendent of Public Instruction in the annual Budget Act.~~

~~SEC. 6.—~~

1 *SEC. 3.* This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety
3 within the meaning of Article IV of the Constitution and shall go
4 into immediate effect. The facts constituting the necessity are:

5 To provide much needed flexibility to school districts currently
6 deciding whether to end participation in the Class Size Reduction
7 Program for the 2003–04 school year, it is necessary that this bill
8 take effect immediately.

